

BOARD OF HEALTH
Bangs Community Center: Glass Room
Minutes

June 19, 2013

BOH Members: David Ahlfeld, Diane Amsterdam MD, Nancy Gilbert, Julie Marcus,
Maureen O'Leary
Staff: Julie Federman, Pamela Field-Sadler
Other: See Attached Sign-In Sheet

Meeting opened at 7:04 p.m.

I. New Business

A. Public Hearing: Proposed Regulation

Motion: At 7:05 p.m., Ms. Gilbert made the motion, seconded by Ms. Marcus, to open the Public Hearing to receive public comment concerning a proposed regulation: *Regulation of the Town of Amherst Board of Health Restricting the Sale and Use of Tobacco Products and Nicotine Delivery Products.*

Vote: Unanimously Approved

Chairman Ahlfeld welcomed all and explained the purpose of the hearing was to accept public comment regarding the proposed regulation *Regulation of the Town of Amherst Board of Health Restricting the Sale and Use of Tobacco Products and Nicotine Delivery Products.* Chairman Ahlfeld further explained voting would not occur during the hearing; after the hearing the Board of Health (BOH) will take up a discussion regarding the proposed regulation and everyone is welcome to stay. The BOH will accept written public testimony regarding this item through July 1, 2013. The following public comments were shared by attendees:

- Responsible retailers, and legal consumers, should not be penalized due to the negligence of others.
- Legal consumers will go to neighboring communities to purchase affordable, single cigars.
- A retailer reported an approximate 75% decrease in sales revenue from cigar products in a local community which has passed a similar regulation.
- Teens are resourceful; they find ways to purchase tobacco products.
- The suggestion was made to regulate other products which does not only affect retail stores such as banning the sale of single cans of beer.
- Selling tobacco is not a fundamental right; therefore claims of unfairness or discrimination are invalid.
- Banning inexpensive, single packaged cigars is a pricing strategy aimed to reduce consumption by youth.

Motion: At 7:25 p.m., Ms. Marcus made the motion, seconded by Ms. Gilbert, to close the Public Hearing to receive public comment concerning a proposed

regulation *Regulation of the Town of Amherst Board of Health Restricting the Sale and Use of Tobacco Products and Nicotine Delivery Products.*

Vote: Unanimously Approved

II. Old Business

A. **Discussion:** *Regulation of the Town of Amherst Board of Health Restricting the Sale and Use of Tobacco Products and Nicotine Delivery Products*

The Board of Health (BOH) noted the argument that a decrease in customer traffic is akin to the argument presented at the time tobacco use was banned in restaurants. The BOH recognized the reporting of a significant reduction in sales from tobacco products in a chain store where comparable regulations are in effect is compelling. However, Ms. Sbarra pointed out evidence has not been presented by the tobacco industry of retailer revenue loss in Boston; Boston has had a similar regulation in effect for more than one year. Ms. Sbarra also brought attention to the requirement for cigarettes to be sold in a package of 20; the requirement to sell cigars in a package of four, like cigarette packaging restrictions, is an effort to reduce consumption. The BOH noted comments were not received by any town boards or committees. The BOH reviewed the proposed draft regulation; Ms. Kersell will prepare a final draft of the proposed regulation for the next meeting.

B. **Meeting Minutes**

Meeting Minutes from May 16, 2013 - **Approved**

Vote: Ahlfeld: aye; Amsterdam: aye; Gilbert: abstain; Marcus: aye; O'Leary: abstain

C. **Wood Smoke Regulation:** *Amherst Board of Health Regulations Governing Emissions From Solid Fuel Burning Devices*

The Board of Health reviewed amendments to the current *Amherst Board of Health Regulations Governing Emissions From Solid Fuel Burning Devices*. The suggested amendments to *Section 5. Penalties* meet the requirements of M.G.L. Chapter 111, § 31C.

Motion: Ms. Marcus made the motion, seconded by Ms. Gilbert, to approve the *Amherst Board of Health Regulations Governing Emissions From Solid Fuel Burning Devices* as amended to become effective September 1, 2013.

Vote: Unanimously Approved

D. **Gilreath Manor**

Ms. Federman explained one Gilreath Manor property co-owner had scheduled an initial inspection of Gilreath Manor, and another co-owner then canceled the appointment. Ms. Federman inadvertently learned the initial inspection had taken place without her participation with the Building Commissioner and the Code Enforcement Officer. Ms. Federman and the Building Commissioner made the decision he and the Code Enforcement Officer would complete the final inspection of the property. The Code Enforcement Officer, as an agent of the BOH, would be responsible to ascertain the requirements of the variance approval were met. The BOH agreed to send a letter to the owners to apprise them of their knowledge of the

unfulfilled conditions of the variance request, and request an explanation for their neglect by July 9, 2013.

Motion: Ms. Gilbert made the motion, seconded by Ms. O'Leary, to approve the drafting of a letter by Ms. Marcus to the property owners of Gilreath Manor requesting a written explanation for the unfulfilled conditions of the request for a variance. After the draft is reviewed by Ms. Federman and Chairman Ahlfeld, the final document will be signed by Ms. Marcus.

Vote: Unanimously Approved

III. Topics Not Anticipated By the Chair 48 Hours Prior To The Meeting

No items were brought forward for review or discussion.

IV. Director's Report and Update

A. Tobacco

Ms. Federman informed the Board of Health that Northampton is considering raising the legal age to purchase tobacco products to 21.

B. Medical Marijuana

The Pioneer Valley Planning Commission intends to provide town planners a forum to discuss zoning issues impacted by the medical marijuana regulation.

C. Rental Regulations

The Rental Regulation by-law was passed by Town Meeting. The Board of Health will need to rescind their current Rental Regulation.

D. Board of Health Appointments

Dr. Amsterdam and Ms. Gilbert expressed interest in being re-appointed for another term on the Board of Health (BOH). Ms. Federman will share their interest with the Town Manager. Appointees will need to be sworn into BOH positions in order to vote at the July 2013 meeting.

V. Schedule Next Board of Health Meeting/Agenda Closing Date

The Board of Health scheduled the following meetings:

- July 11, 2013

Pamela Field-Sadler, Management Assistant
Approved: July 31, 2013

Town of



AMHERST

Massachusetts

AMHERST HEALTH DEPARTMENT, 70 BOLTWOOD WALK, AMHERST, MA 01002
(413) 259-3077 (413) 259-2404 - FAX Environmental Health Division (413) 259-3078

BOARD OF HEALTH MEETING

Sign In Sheet

June 19, 2013

Room 101

Bangs Community Center

7:00 p.m.

NAME (Please Print Clearly) ADDRESS/AFFILIATION/TITLE

1. Ray Cross F.L. Roberts Co District Mgr.
2. Scott Merzbach Gazette - Bulletin
3. Cheryl Sharra Mass Assoc of Health Bds
4. Michael James- resident
5. Mary Kusell FHSTOPP 55 Aubinwood Rd Amherst
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____

Board of Health
June 19, 2013
Bangs Community Center: Room 101
Meeting Document List

The following documents were available to the Board of Health during their scheduled meeting. These documents are available for review at the:

Amherst Health Department, 70 Boltwood Walk, Amherst, MA 01002

- Meeting Agenda
- Meeting Minutes: May 16, 2013 (draft)
- Proposed Regulation: *Regulation of the Town of Amherst Board of Health Restricting The Sale and Use Of Tobacco Products and Nicotine Delivery Products*(draft)
- Correspondence from General Counsel Ryan C. Kearney – Retailers Association of Massachusetts
- Correspondence from Stephen Ryan, Esq. on behalf of the New England Convenience Store Association
- Correspondence from John Howell, Exc. Director – New England Service Station & Auto Repair Association
- Correspondence from Thomas A. Briant, Exc. Director and Legal Counsel – National Association of Tobacco Outlets
- Correspondence from Tami Gouveia – Tobacco Free Mass
- Correspondence from Cheryl Sbarra, J. D. – Massachusetts Association of Health Boards
- M.G.L. Chapter 111 Section 31
- *Amherst Board of Health Regulations Governing Emissions From Solid Fuel Burning Devices* (with suggested amendments submitted by Julie Federman)
- *Amherst Board of Health Regulations Governing Emissions From Solid Fuel Burning Devices* (Final)